

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

RHONDA M. MCLEMORE

§

§ Civil Action No. 4:18-CV-689

v.

§ (Judge Mazzant/Judge Nowak)

WALMART INC. LLC TEXAS STORES,
ET AL.

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**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On July 3, 2020, the report of the Magistrate Judge (Dkt. #183) was entered containing proposed findings of fact and recommendations that Defendants Wal-Mart Stores Texas LLC, Josephine Jacobs, Cinthya Knowlton, Raquel Nunez, and Jason Stewart's Motion for Summary Judgment (Dkt. #118) be granted, Plaintiff Rhonda McLemore's Motion for Amended Summary Judgment (Dkt. #122) and Motions for Leave to Amend (Dkts. #157; #159; #160) be denied, and each of Plaintiff's claims be dismissed with prejudice. Having received the report of the Magistrate Judge, having considered Plaintiff's Objections (Dkt. #189), Defendants' Response (Dkt. #190), and having conducted a de novo review, the Court is of the opinion that the Magistrate Judge's report should be adopted.

Plaintiff filed her suit on October 1, 2018, complaining of race and age-based employment discrimination by Defendants (Dkt. #1). On December 20, 2019, the Parties filed competing Motions for Summary Judgment (Dkts. #118; #122). The Magistrate Judge recommended each of Plaintiff's claims be dismissed (Dkt. #183). Plaintiff filed Objections to the report on July 27, 2020 (Dkt. #189) and Defendants responded on August 3, 2020 (Dkt. #190).

OBJECTION TO REPORT AND RECOMMENDATION

A party who files timely written objections to a magistrate judge's report and recommendation is entitled to a de novo review of those findings or recommendations to which the party specifically objects 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(2)-(3).

Here, Plaintiff makes no specific objection to the Magistrate Judge's report, rather the Objections constitute sixteen (16) pages of jumbled assertions, beginning with the statement “[t]his is a Trump era and Walmart is participating in the BLACK LIVES DON'T MATTER MOVEMENT” (Dkt. #189 at p. 1) (emphasis in original). Plaintiff then proceeds to recount various docket entries from the instant case, followed by her rendition of “material facts”, a copy of the text of Rule 56, and a brief history and commentary on the Seventh Amendment Right to Trial by Jury (Dkt. #189). The only references to the substance of the Magistrate Judge's recommendation, state in their entirety, “Plaintiff strongly objects to the Madgistrates [sic] Motion for Summary Judgment be denied and all claims be dismissed with prejudice” (Dkt. #189 at p. 3), “[m]y objection to the madgistrates [sic] report and recommendation can be substantiated . . .” (Dkt. #189 at p. 4), and “[t]his case is Plagued with Elicit Bias[,] ‘Plaintiff’[s] Evidence is factual and Compelling’[;] Report and Recommendation should be denied in whole. Plaintiff Objects to all. Highly Prejudicial” (Dkt. #189 at p. 14) (capitalization in original).

Defendants retort, “Plaintiff’s Objections are generalized and do not identify a specific finding or recommendation to which objection is made, state the basis for the objection, or specify the place in the Magistrate’s Report where the disputed determination is found” (Dkt. #190 at pp. 3–4). The Magistrate Judge’s recommendation advised Plaintiff that her “[f]ailure to file specific, written objections will bar the party from appealing the unobjected-to factual findings and legal conclusions of the magistrate judge that are accepted by the district court, except upon grounds of plain error . . .” (Dkt. #183 at p. 41).

Defendants are correct; “[f]rivolous, conclusive or general objections need not be considered by the district court.” *Nettles v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. 1982), *overruled on other grounds by Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415 (5th Cir. 1996). The majority of Plaintiff’s Objections are nonsensical fragments and clauses, unrelated to the report’s findings. Plaintiff has wholly failed to provide specific or substantive objections to the Magistrate Judge’s report and recommendation. Plaintiff’s Objections are overruled.

It is, therefore, **ORDERED** that Defendants Wal-Mart Stores Texas LLC, Josephine Jacobs, Cinthya Knowlton, Raquel Nunez, and Jason Stewart’s Motion for Summary Judgment (Dkt. #118) is hereby **GRANTED** and each of Plaintiff’s remaining claims are **DISMISSED WITH PREJUDICE**.

It is, further, **ORDERED** that each of Plaintiff Rhonda McLemore’s Motion for Amended Summary Judgment (Dkt. #122), Memorandums of Points and Authorities in Support of Motion for Leave to Amend Complaint (Dkts. #157; #159) and Motion for Leave to Amend the Complaint (Dkt. #160) are hereby **DENIED**.

IT IS SO ORDERED.

SIGNED this 21st day of August, 2020.



AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE